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ANTHONY FOREMAN AND JOHN G. ROSS.

APRIL 16, 1830.

Mr. WHITTLESEY, from the Committee of Claims, made the following

REPORT:

The Committee of Claims, to which was referred the memorial of the Cherokee Delegation in behalf of Anthony Foreman and John G. Ross, report:

That, by the act of 30th of March, 1802, entitled "An act to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontiers," our citizens and other persons are prohibited from going into the Indian country without a permit, and it is provided in that act, that, if our citizens should pass into the Indian country, and commit larceny, robbery, trespass, &c. (if the act was punishable in the States) that they pay to the Indians whose property was destroyed or taken, twice the value of such property so destroyed or taken, and, if the offender was unable to pay a sum, at least equal to the just value, whatever such payment fell short of the just value, was to be paid out of the Treasury of the United States.

If the Indians trespassed on the property of our citizens, the damages they sustained were to be deducted out of the annuities of the Indians.

It appears in this case, that, in December, 1813, a man by the name of James S. Cunningham, obtained a warrant from a Justice of the Peace in Tennessee, and entered the Indian country, and took two negro women and a negro boy, a son of one of the women, from the possession of Anthony Foreman, and from the possession of a man by the name of Maw, to whom Foreman had sold one of the women, under the pretence that Foreman, in the year 1791, had stolen the women from his father. The negroes were taken off by an armed force, and although pursuit was made by Foreman's son, accompanied by another person, no delivery of the property was made, nor could young Foreman find a lawyer who would undertake to commence a suit against Cunningham, as he passed through Maryville, and the excuse was, that an Indian could not obtain justice where a white man was a party. It does not appear that Cunningham further prosecuted his warrant, than to use it as a means of taking possession of the negroes. Foreman made complaint to this Government, and the Cherokee Agent was directed to investigate the subject, and prosecute Cunningham, if he could be found. The facts were investigated, and found to exist as stated by Foreman, but the residence of Cunningham could not be ascertained, or his person identified.

The Agent reported, that he had heard of one or more persons of that name, who had lived in South Carolina, but, that, if they were then living, they were insolvent. The opinion of the Agent was, that the claim was a good and subsisting one against the United States. There is no value put on these negroes except the boy. A man by the name of Cunningham, a trader, states, he was at Foreman's when James S. Cunningham took the negroes away; that the boy, Cæsar, was fourteen or fifteen years old, and was worth three hundred dollars, and that he had offered that price for him to Mr. Foreman.

John Walker and Alexander Sanders testify, that, in the year 1814, they were called on to arbitrate between Thomas Foreman, executor of Anthony Foreman, and Thomas Maw, to whom one of the negro women had been sold by Anthony Foreman, and from whose possession she was taken by Cunningham, and that they awarded that Thomas Foreman should pay to Maw five hundred dollars. The proceedings in this case are too vague and indefinite for the committee to rely on, as furnishing correct data by which to ascertain the value of the negroes. The claim has been lately examined by the Superintendent of Indian Affairs, who made a favorable report, which has met the sanction of the Secretary of War; but, inasmuch as there is no appropriation of money out of which the sum due can be paid, the Secretary has recommended the Agent of the Cherokee Delegation to present the claim to Congress. The committee are satisfied with the justness of the claim; but, being unadvised as to the value of the negroes, they will report a bill directing the Secretary of War to ascertain their value. It has occurred to the committee, that, in fixing on the amount, the prices fixed by the Commissioners under the Ghent treaty, will be of much assistance.

The claim of John G. Ross is for a quantity of corn cut down by Colonel Turk, under the following circumstances: Colonel Turk was directed by the Agent of the War Department, in October, 1823, to go into the Cherokee nation with an armed force, and remove intruders from the Indian lands, and destroy their crops, where they were standing. A white man, by the name of Stower, had raised a crop of corn that season on the land of John G. Ross, on shares. Stower not coming within any of the excepted or privileged white persons, who were permitted to be in the Indian nation, Turk, in the execution of his orders, cut down one half of the corn Stower had cultivated, supposed to be equal to his share of the crop. Ross contends that he had a right to employ a white person to cultivate his land, and if not, that he had purchased the right Stower had in the corn, and of course, that the whole was his, and as the owner, that his rights should have been protected. The claim has been examined by the Superintendent of Indian Affairs, and rejected as inadmissible. There is much contradiction as to the facts between the witnesses, whose depositions have been taken by Ross, and the report of Colonel Turk. They concur in this, that Stower cultivated the corn. Considering that the Government, for the purpose of protecting the Indians in their rights, have adopted the policy to prohibit white persons from going on to Indian lands, unless connected with the nation by marriage, or having a permit, they think that an individual member of the nation cannot defeat the operations of this Government by employing a white man to cultivate his crops. If the committee are mistaken in this, they think, from the report of Colonel Turk, confirmed as it is by the season of the year the corn was cut, that no damage was sustained by cutting it down, or, if any, that it was comparatively trifling. If the corn was ripe as

stated, and the owner had taken measures to gather it, he could not have sustained any damage by the cutting.

The witnesses on the part of the claimant are silent as to the fact whether the corn was gathered after it was cut down. As to the claim of Ross, the committee submit the following resolution:

Resolved, That John G. Ross is not entitled to relief.